IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.417 OF 2003

IN

SUMMARY SUIT NO.2413 OF 2000

Agasti Industries & anr .. Plaintiff

versus

Ovhal Agencies .. Defendant

...

Ms.Sumedha Rao for Plaintiff.

Mr.Utangale i/b Utangale & Co for Defendant.

CORAM : D.G. KARNIK, J

DATED : 1st February, 2005.

P.C:-

1. Heard learned counsel for the parties. Learned counsel for the defendant points out that previously the plaintiff had taken out the Summons for Judgment No.1128 of 2004 against the defendant. By an order dated 13th August, 2002 this Court has granted unconditional leave to the defendant to defend the suit.

2. As unconditional leave to defend the suit has been granted to the defendant no second Summons for Judgment is maintainable. Learned counsel for the plaintiff contends that because of the amemdment of the plaint fresh summons has been taken out. Amendment is no ground for taking out a fresh Summons for Judgment. Principle of resjudicata also applies between two stages of the same proceedings. Taking out a second Summons for Judgment is an abuse of the process of the Court.

3. Hence, Summons for Judgment is dismissed with costs which are quantified at Rs.500/-.

D.G.KARNIK, J